



American Civil Liberties Union
of Montana

EXHIBIT

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Power Block, Level 4

DATE

1/15/07

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HB

78

Helena, Montana 59624

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January 15, 2007

Testimony HB 78

Mister Chairman and Members of the Committee:

I am Scott Crichton, Executive Director of the American Civil Liberties Union of Montana. Today I speak on behalf of the 2,400 Montana households who are dues paying members to ACLU. The ACLU is dedicated to defending the Bill of Rights and the Constitution. We take the phrase "with liberty and justice for all" to heart. To the ACLU, liberty matters.

I want to be supportive of Rep. Parker's HB 78, because it is another step in the right direction of changing the way we deal with criminal sanctions for drug use. However laudable the drug court concept, I think it misses the target. We do not need so much to develop a new administrative council in the judiciary as much as we need to get treatment dollars to the community. To help you understand some of our concerns and why I reach such a conclusion, I encourage you to review two sets of recommendations.

The first comes from a report prepared for the Department of Corrections by Timothy B. Conley and David L. Schantz, professors from the University Of Montana School Of Social Work, in which they scrutinized data from our various pre-release centers to assess who we have in those facilities. The report is titled "Predicting and Reducing Recidivism: Factors Contributing to Recidivism in the State of Montana Pre-release Center Population & Issues of Management: A report with recommendations for policy change. (I have attached a copy of the summary of that report for your convenience and am certain the DOC will provide members with the twenty page report in its entirety if so requested).

The other comes from the Governor's Advisory Council on Corrections, a broad and diverse group of people who looked closely over the interim at a number of issues. Lt. Governor Bohlinger appointed a subcommittee to study prison overcrowding and make recommendations about how to take the pressure off the system. I would encourage your review of their seven recommendations. (I have also attached a copy of their recommendations and a list of commission members for your convenience.)

The University of Montana study documents some of what has been surmised but heretofore unconfirmed to be factual. In reading the study last week, I highlighted a few things, not the least of which is that they only use the word "significant" when exploring and describing statistically supported differences between groups. I remind you of some of their findings:

- ✓ Mental Illness exists in over 45% of the pre-release center populations. (69% of females, 41% of males have mental health diagnosis.)
- ✓ 94% of all offenders with a mental illness have a chemical dependency diagnosis, commonly referred to as a co-existing disorder.
- ✓ 93% of all residents are found to have a condition of substance abuse or chemical dependency disorder.
- ✓ 70% of the populations hold a high school equivalency in education. (69% of men, white and Native American; white females 87%, Native American females 46%).

Of the seven recommendations of the Corrections Advisory Council two in particular, both of which passed with unanimous support, are noteworthy here.

Recommendation #1,b: "Modifying and expanding, particularly in rural areas, the existing system in which district judges operate drug courts and mental health courts to create dual-purpose "treatment courts" capable of handling those with both drug addiction problems and emotional/mental disorders: and as an incentive, provide DOC probation and parole officers when needed. This would address the fact that many offenders experience both afflictions and many of those with mental health problems are reluctant to submit themselves to a "mental health court" because of the stigma."

Recommendation #7: "Conduct a study, lasting no more than two years, on non-prison alternatives for treating non-violent offenders convicted of a first or second time of simple drug possession. The study should be conducted by the

Corrections Advisory Council and/or the appropriate legislative interim committee."

What is of concern with HB 78 is that it addresses an enormous problem by building on a model which depends almost exclusively on exemplary individuals in limited jurisdictions who are willing to work above and beyond their normal job descriptions to deliver services to only a fraction of those in need of those services.

I trust you will keep the recommendations from both the study and the Advisory Council in mind as you weigh policy decisions that may also come before you—both in your deliberations in this committee and in your deliberations on the floor of your respective chambers.

Except when talking about the small percentage of violent offenders in the system, it is clear that prisons are a very expensive alternative to community based mental health treatment. And issues of chemical dependency, whether addressed on their own or as co-existing disorders with mental health, can be much more effectively and economically treated in a non-incarcerated environment in the community.

It is becoming clear to more and more people that perhaps the only way we can take significant pressure off the existing escalating costs for Corrections and resist the demand for even more hard beds in secure facilities, is for us to come to an understanding that treating mental health and chemical dependency primarily as health issues rather than primarily as criminal issues, is in everyone's best interests. Once we do that, we can begin to portion those hard beds out accordingly to people who are violent, predatory, and threats to public safety.

A Report to
Montana Department Corrections
Mike Ferriter, Director
&
Adult Community Corrections Division
Pam Bunke, Administrator

Predicting and Reducing Recidivism: Factors Contributing to
Recidivism in the State of Montana Pre-release Center Population &
the Issue of Measurement:

A report with recommendations for policy change.



The University of
Montana

School of Social Work

Timothy B. Conley, Ph.D.
David L. Schantz, Ph.D.

November 20, 2006

Thursday, January 11, 2007

Report to the Montana State Legislature Joint Subcommittee on Corrections and Public Safety.

The following is a summary of key points from a research report developed for the Montana Department of Corrections entitled "Predicting and Reducing Recidivism: Factors contributing to recidivism in the State of Montana Pre-release Center Population & the Issue of Measurement: A report with recommendations for policy change." The full document was previously submitted to you on behalf of the Department of Corrections by Dr's Timothy Conley and David Schantz of The University of Montana School of Social Work. Both researchers are available to answer questions.

The study is based on a comprehensive scientifically valid sample from the state's five Pre-release Centers (PRCs) including 1178 resident records. Findings reported here represent the entire population of the PRC system. For this study, the information collected was extensive and the report forwarded to the committee members details the findings below including additional information that will be useful for policy decision making within the Department. The following bulleted items are the major findings and recommendations.

- 93.1 % of all residents are found to have a condition of substance abuse or chemical dependency disorder either at admission or discharge.
- Mental Illness exists in 45.8% of the PRC population. Broken down by gender 69.0% of females and 41.0% of males have a mental illness diagnosis.
- 94.3 % of all offenders with a mental illness have a chemical dependency diagnosis. This is commonly referred to as a co-occurring disorder.
- 70% of the population holds high school equivalency in education, 30 % do not. Broken down by gender and ethnicity there are no differences between ethnic groups of men (69.4% have high school equivalency). There *are* differences among women. 86.9 % of white females have high school equivalency, 46.4 % of Native American females have high school equivalency.
- Native Americans are 2.4 times more likely to return to institutional status than non Native Americans. The detailed recidivism prediction model is on page 14 of the previously submitted report.

Recommendations are made to:

- Develop a comprehensive reliable long term data tracking system that allows the measurement of the effects that changes to the PRC system have on recidivism rates.
- Incorporate common assessment and screening tools across all PRCs regarding chemical dependency/abuse and mental illness to better target services to this group.

The material in the following two paragraphs can not be found directly in the previously submitted report but follow from it:

It is important to realize that the resident population of the PRCs (and other DOC facilities) is not a single unified group of persons impacted uniformly by changes made in the DOC system. To be successful in reducing recidivism and lowering costs to the DOC (and other state institutions) as well as Montana society, it is important that the DOC be able to recognize in a measurable way the differences between groups of persons in the system. Development of interventions that have a measurable impact by lowering costs and recidivism will only be possible when service improvements are combined with better measurement. Missteps can be corrected in a timely fashion when adequate measurement accompanies service development.

Understanding of key factors that contribute to Native American return to institutional status is needed. Policy changes that improve mental health and addictions services (or other services) either in the PRC system or through diversion are also needed. It is recommended that program changes and their impact on recidivism and costs be measured. Service and policy shifts made by DOC may potentially affect non DOC Montana institutions. Tracking of outcomes is critical to insure that any measures taken to reduce the costs and recidivism of PRC residents have a positive impact across all Montana institutions.

David Schantz, Ph.D.

Timothy Conley, Ph.D.



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Corrections Advisory Council



Recommendations of the Department of Corrections Advisory Council *Nov. 30, 2006*

Background

At the Nov. 16, 2005, meeting of the Corrections Advisory Council, Chairman and Lt. Gov. John Bohlinger appointed a six-member subcommittee to study prison overcrowding and make recommendations about how to take the pressure off of the system. The subcommittee focused on increasing community corrections programs and services as a means of diverting offenders from prison, paying particular attention to special-needs populations such as drug offenders, sex offenders and the mentally ill. We looked at the needs of offenders before, during and after their incarceration, in order to improve the continuum of care and treatment, in hopes of reducing the recidivism rate. We also were aware that the native American population is over-represented in the system, and that the women's population is rising more quickly than the male population. Native Americans have a tougher time navigating the system than white inmates, and both the native American and women populations are on the rise due to drug offenses. Taking all of these factors into consideration, the committee makes the following recommendations, which are aimed at improving the system and the offenders' chances of success in the community.

The members are Rep. Gail Gutsche, Missoula, chairwoman; Sen. Jim Shockley, Victor; Reps. Tim Callahan, Great Falls, and Veronica Small-Eastman, Lodge Grass; Cascade County Sheriff Dave Castle; and Toole County Commissioner Allan Underdal.

The subcommittee met seven times: Jan. 5, Jan. 31, Feb. 27, March 31, May 8, June 19 and Aug. 1. The full council conducted its initial discussions of the proposed recommendations at its Sept. 8 meeting in Boulder, deciding to conclude the discussion and take final action at its Nov. 30 meeting.

Recommendations

The following summarize the Corrections Advisory Council's recommendations adopted at its meeting on Nov. 30, 2006. All but one passed unanimously. The vote on No. 2 was 11-1.

1. Expand community-based programs and services for offenders by:

a) Creating a pilot project that offers financial incentives for local governments or service providers to increase community-based programs for offenders. The money would be paid to governments based on an established formula, such as the year-over-year reduction in the number of offenders committed to prison from a particular judicial district. The program would need an initial appropriation, although future funding could come from the money saved by the Department of Corrections due to reduced inmate admissions.

b) Modifying and expanding, particularly in rural areas, the existing system in which district judges operate drug courts and mental health courts to create dual-purpose "treatment courts" capable of handling those with both drug addiction problems and emotional/mental disorders; and as an incentive, providing DOC probation and parole officers when needed. This would address the fact that many offenders experience both afflictions and many of those with mental health problems are reluctant to submit themselves to a "mental health court" because of the stigma.

c) Developing criteria for developing adult "guide homes." This would be similar to a program already in place for juvenile offenders. These are private homes where residents are willing to take in an adult offender and offer him or her positive role models and mentoring that will put them on the right track.

2. Provide a stipend for a lengthy enough period of time (suggested at least three months) after an offender is released from prison to help them restart their lives. The current release stipend of \$100 is clearly not enough for a homeless, jobless offender to get restarted. This money, which would be administered by the offender's parole officer, would be used to help a person with critical expenses such as those related to housing, job-hunting and necessities of life. The DOC would pay bills, such as rent and restitution, directly to the vendors.

3. Changed the title of the "Sexual and Violent Offender Registry" to the "Sexual and/or Violent Offender Registry" to reflect that not all violent offenders listed there also are sexual offenders.

4. Help inmates adapt to release into communities by:

a) Employing case managers in prisons to help inmates better prepare for release by identifying community and mental health services that will ensure a continuum of care for offenders.

b) Adding specialized case managers to probation and parole offices to help offenders navigate wrap-around community services needed for their ongoing recovery. Currently, this service is being performed by parole officers who are already overwhelmed with huge workloads and may not be familiar with all of the available and necessary services.

5. Provide additional assistance to sex offenders by:

- Increasing sex offender and chemical dependency treatment capacity in prisons so that inmates do not have to wait long periods for mandatory treatment before they can qualify for parole eligibility.
- Asking the Workforce Development Task Force to put greater emphasis on filling the need for more sex offender therapists and other professionals capable of providing increased community treatment opportunities to offenders.
- Doing more to connect sex offenders with individual and group therapy opportunities upon release from prison. Recognizing that sex offenders need lifelong support and therapy, this will ensure they are connected to community therapy opportunities upon release from prison, and utilizing existing private providers where possible.
- Using case managers who specialize in working with sex offenders or the mentally ill offenders.
- Analyzing the potential for persuading more prerelease centers to accept sex offenders.
- Investigating the possibility of the state indemnifying sex offender therapists.

6. Ask the Department of Corrections and the state Board of Crime Control to collaborate on development of a comprehensive database of available offender services and their locations.

7. Conduct a study, lasting no more than two years, on non-prison alternatives to for treating non-violent offenders convicted a first or second time of simple drug possession. The study should be conducted by the Corrections Advisory Council and/or the appropriate legislative interim committee.